

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

WILLIAM BIRDNECKLACE,

Civil No. 10-1967 (JMR/FLN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

RAMSEY COUNTY COMMUNITY
HUMAN SERVICES DEPARTMENT,

Defendant.

Plaintiff commenced this action on May 5, 2010, by filing a pro se civil complaint, and an application seeking leave to proceed in forma pauperis, (“IFP”). (Docket Nos. 1 and 2.) The Court previously examined those submissions, and found that Plaintiff’s complaint was fatally defective, and his IFP application was incomplete. Plaintiff was therefore informed that his IFP application would be “denied without prejudice.” (Order dated May 10, 2010; [Docket No. 3].) Plaintiff was given an opportunity to file an amended complaint, and to either (a) file an amended IFP application, or (b) pay the \$350 filing fee for this action. (Id.) Plaintiff was advised that if he did not submit both an amended complaint, and an amended IFP application, (or the \$350 filing fee), within 30 days, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). (Id.)

The deadline for complying with the Court’s prior order in this case has now passed, and Plaintiff has not satisfied either of the requirements of that order. Furthermore, Plaintiff has offered no explanation or excuse for his failure to comply with the prior order. Indeed, Plaintiff has not communicated with the Court at all since he filed this action. Therefore, it is now recommended, in accordance with the Court’s prior order, that Plaintiff be deemed

to have abandoned this action, and that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: July 2, 2010

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **July 16, 2010**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party’s brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.